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April 21, 2008

Thomasenia Duncan, Esq
General Counsel
Federal Election Commission
999 E Street, N W
Washington, DC 20463

Re: MUR 5504
Karoly Law Offices, P.C., and John Karoly, Jr.

Dear Ms Duncan

We write on behalf of our clients, Karoly Law Offices, P C ("the Firm"), and John Karoly, Jr ("Respondents"), in response to the General Counsel's recommendation of a finding of probable cause to believe that violations occurred in this matter

All along, the Office of General Counsel seems to have been unalterably convinced that Respondents violated the prohibition on contributions in the name of another The Introduction of the briefs against the Firm and Mr Karoly makes this amply clear It tells how a disgruntled former employee filed the complaint It tells how Respondents provided evidence to rebut the complaint's allegations And then it tells how the Commission still found reason to believe that Mr Karoly and the Firm knowingly and willfully committed violations *See* In the Matter of John Karoly, Jr , General Counsel's Brief, MUR 5504, at 1

OGC's briefs repeatedly reflect this rush to judgment

- Evidence that the Firm paid Christina Ligotti $3,000 as a bonus for work on the Hirko case is rejected for supposed failure to comply with proper payroll recordkeeping, and then twisted into proof of a knowing and willful violation *See id* at 4-5, 9

- The briefs seize on a June 2007 refund by Gephardt for President to Christina Ligotti as evidence of consciousness of guilt They say that the timing of the refund suggests that Ms Ligotti reached out to the Gephardt campaign because of this matter They flatly assert that "the Gephardt Committee properly allocated this $3,000 contribution to Christina and Matthew Ligotti for $1,500 each " *Id* n 2 However, they ignore the Commission's own finding – publicized on June 19, 2007 – that the Gephardt Committee "failed to resolve excessive contributions totaling $225,792" for want of proper written attributions *See* Final Audit Report, Gephardt for President, Inc , at 4

- The briefs assert that John Karoly "chose people he could intimidate professionally " John Karoly, Jr Brief at 9 Yet after nearly four years of investigation, they present no evidence of actual intimidation *Id* at 9

- The briefs disclaim any suggestion that the Commission should strike the affidavits initially submitted by the Respondents But they say in the same breath that "the Commission should give little or no weight to them " *Id* at 10 n 10

- The briefs uncritically presume Greg Paglianite's second affidavit to be true They cite it as the principal reason for a probable cause finding *See id* at 8 But they do not seriously engage the question of Paglianite's credibility, or how his conflicting testimony allows such weight to be placed on his most recent assertions

Given these circumstances, there can scarcely be any wonder that the individual respondents, facing charges that they personally had violated a heartland provision of the Federal Election Campaign Act, would not wish to provide further testimony to the Office of General Counsel Their previous testimony had been disregarded The documents produced by the Firm were simply culled for further, purported evidence of violations The Firm's offer to engage in pre-probable cause conciliation was peremptorily spurned

John Karoly, Jr did not assert his Fifth Amendment privilege against self-incrimination in this matter *Cf id* at 7 But he reserved his right to do so, if his testimony had been compelled And that seems to have been a sensible decision, apart from any desire "to shield [his] testimony from scrutiny " *Id* at 10 n 9

For the foregoing reasons, the Commission should not find probable cause to believe that Respondents violated the Act,

Very truly yours,

Marc E Elias
Brian G Svoboda
Counsel to Respondents